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EXAMINER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/926,434
Filing Date: November 01, 2001
Appellant(s): YAMAMOTO, TOSHIFUMI

James Kulbaski (Reg. No.: 34,648)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 04 September 2007 appealing from the Office action mailed 15 February 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

A. Patent Documents

6,697,638	LARSSON ET AL.	2-2004
6,542,758	CHENNAKESHU ET AL.	4-2003
5,751,719	CHEN ET AL.	5-1998
6,493,550	RAITH	12-2002

(9) Grounds of Rejection Applicable to the Appealed Claims

The following ground(s) of rejection are applicable to the appealed claims:

Note: As a result of the amendment as indicated above (see appeal brief) in item 4, the rejections have been modified to address the amendment.

A. Claim Rejections - 35 USC § 102

Claims 24, 28, and 63 are rejected under 35 U.S.C. 102(e) as being anticipated by **Larsson et al.** (hereinafter Larsson) (US 6,697,638 B1).

Regarding **claim 24**, Larsson discloses a hand-held portable telephone (100) which reads on the claimed "mobile communication terminal" connectable to a vehicle mounted phone part (160 car kit) which reads on the claimed "car mounted electronic device" (see Figs. 1-15), the mobile communication terminal (100) comprising:

a cellular transceiver (110) which reads on the claimed "first interface" for making radio communication with a cellular system (152) which reads on the claimed "mobile communication network" (see Fig. 1); and

a low power transceiver (120) which reads on the claimed "second interface" for making radio communication with the electronic device (160) (see Fig. 1);

wherein the connection control section starts a connection procedure with the car mounted electronic device (160) by transmitting a response signal that includes attribute information of the mobile communication terminal (100) to the car mounted electronic device (160) when a paging signal transmitted from the car mounted electronic device to determine a presence of a mobile communication terminal (100) within a radio area of the car mounted electronic device (160) is detected (see col. 4, lines 1-5; Figs. 1 and 4-7), and

sets communication mode in a hands-free mode automatically if the connection procedure is completed (see col. 5, lines 51-57; col. 6, lines 13-15),

disconnects the connection with the car mounted electronic device (160) and sets the communication mode in its own communication mode if no packet, which is periodically output from the car mounted electronic device (160) for acknowledgement of the connection, is received for a predetermined time period (see col. 7, lines 35-41).

Regarding **claim 28**, the mobile communication terminal according to claim 24, wherein the connection control section transmits an authentication code to the car

mounted electronic device (160) in the connection procedure via the second interface (120) (see Figs. 5, 7, and 9).

Regarding **claim 63**, the mobile communication terminal according to claim 28, wherein the connection control section transmits address information identifying the mobile communication terminal in the connection procedure (see col. 4, lines 1-5; Fig. 4).

B. Claim Rejections - 35 USC § 103

Claims 24, 26-28, 63, and 65 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Chennakeshu et al.** (hereinafter Chennakeshu) (US 6,542,758 B1) in view of **Raith** (US 6,493,550 B1) and **Chen et al.** (hereinafter Chen) (US 5,751,719).

Regarding **claims 24 and 65**, Chennakeshu discloses a base unit (20) which reads on the claimed "mobile communication terminal" connectable to a control unit (40) which reads on the claimed "car mounted electronic device" (see col. 3, line 60 - col. 4, line 3; col. 2, lines 47-51; Figs. 1-3, 5, 7, and 9), the mobile communication terminal comprising:

a RF transceiver (24) which read on the claimed "first interface" for making radio communication with a mobile communication network (see col. 4, lines 1-3, 11-16; col. 6, lines 8-11; Figs. 2 "ref. 24", 5, and 6 "ref. 103"), where the base unit (20) or handheld terminal (20) of the mobile phone system (10) can communicate with stations outside of the vehicle;

a interface module (32) which reads on the “second interface” for making radio communication with the car mounted electronic device (see col. 4, lines 22-23, 60-64; Figs. 2 “ref. 32” and 3 “ref. 54”); and

a connection control section for controlling connection to the car mounted electronic device (20) (see col. 4, lines 16-22, 45-57; Figs. 2-3), where the system has control logic (26, 52) for controlling operation;

wherein the connection control section starts a connection procedure with the car mounted electronic device (40) by transmitting a response signal that includes attribute information of the mobile communication terminal (20) to the car mounted electronic device (40) (see col. 8, line 64 - col. 9, line 23; col. 8, lines 54-57)

when the car mounted electronic device (40) to determine a presence of a mobile communication terminal (20) within a radio area of the car mounted electronic device (40) is detected (see col. 8, lines 54-57; col. 6, lines 31-42), and

sets communication mode in a hands-free mode automatically if the connection procedure is completed (see col. 6, lines 55-65). Chennakeshu does not specifically disclose having the features when a paging signal transmitted from the car mounted electronic device to determine a presence of a mobile communication terminal within a radio area of the car mounted electronic device is detected, and disconnects the connection with the car mounted electronic device and sets the communication mode in its own communication mode if no packet, which is periodically output from the car mounted electronic device for acknowledgement of the connection, is received for a predetermined time period. However, the examiner maintains that the feature when a

paging signal transmitted from the car mounted electronic device to determine a presence of a mobile communication terminal within a radio area of the car mounted electronic device is detected was well known in the art, as taught by Raith.

In the same field of endeavor, Raith discloses the feature when a paging signal transmitted from the car mounted electronic device to determine a presence of a mobile communication terminal within a radio area of the car mounted electronic device is detected (see col. 7, lines 1-13).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Chennakeshu and Raith to have the feature when a paging signal transmitted from the car mounted electronic device to determine a presence of a mobile communication terminal within a radio area of the car mounted electronic device is detected, in order to detect the presence of a system, as taught by Raith (see col. 3, lines 1-3, 6-9, 47-51). The combination of Chennakeshu and Raith does not specifically disclose having the feature disconnects the connection with the car mounted electronic device and sets the communication mode in its own communication mode if no packet, which is periodically output from the car mounted electronic device for acknowledgement of the connection, is received for a predetermined time period. However, the examiner maintains that the feature disconnects the connection with the car mounted electronic device and sets the communication mode in its own communication mode if no packet, which is periodically output from the car mounted electronic device for acknowledgement of the connection, is received for a predetermined time period was well known in the art, as taught by Chen.

In the same field of endeavor, Chen discloses the feature disconnects the connection with the car mounted electronic device and sets the communication mode in its own communication mode if no packet, which is periodically output from the car mounted electronic device for acknowledgement of the connection, is received for a predetermined time period (see col. 9, line 51 - col. 10, line 25).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Chennakeshu, Raith, and Chen to have the feature disconnects the connection with the car mounted electronic device and sets the communication mode in its own communication mode if no packet, which is periodically output from the car mounted electronic device for acknowledgement of the connection, is received for a predetermined time period, in order to detect a disconnect, as taught by Chen (see col. 2, lines 7-10, 13-17).

Regarding **claim 26**, the combination of Chennakeshu, Raith, and Chen discloses every limitation claimed, as applied above (see claim 24), in addition Chennakeshu further discloses the mobile communication terminal according to claim 24, further comprising an information transfer control section for transferring an incoming call to the car mounted electronic device (40) via the second interface (32) when the incoming call is received from the mobile communication network via the first interface (24) (see col. 4, lines 13-22, 42-57; Figs. 2-3).

Regarding **claim 27**, the combination of Chennakeshu, Raith, and Chen discloses every limitation claimed, as applied above (see claim 24), in addition Chennakeshu further discloses the mobile communication terminal according to claim 24, further

comprising an information transfer control section configured to transfer an outgoing call to the mobile communication network via the first interface (24) when the outgoing call is received from the car mounted electronic device (40) via the second interface (32) (see col. 4, lines 13-22, 42-57; Figs. 2-3).

Regarding **claims 28**, the combination of Chennakeshu, Raith, and Chen discloses every limitation claimed, as applied above (see claim 24), in addition Chennakeshu further discloses the mobile communication terminal according to claim 24, wherein the connection control section transmits an authentication code to the car mounted electronic device (40) in the connection procedure via the second interface (32) (see col. 8, lines 18-64), where the system has a unique identification number for authorized users.

Regarding **claims 63**, the combination of Chennakeshu, Raith, and Chen discloses every limitation claimed, as applied above (see claim 28), in addition Chennakeshu further discloses the mobile communication terminal according to claim 28, wherein the connection control section transmits address information identifying the mobile communication terminal in the connection procedure (see col. 8, lines 18-64), where the system has a unique identification number for authorized users.

(10) Response to Argument

A1. Argument of Claim 24 (see pg. 5, item VII, 3rd par. (¶) of brief)

Appellant argues - ...does not disclose...a disconnection...performed by the mobile communication terminal but the car kit does such controlling...

A2. Response to argument of A1

In response to applicant's arguments above (see A1), the Examiner respectfully disagrees with appellant's argument. Appellant has failed to appreciate the teachings of well-known prior art Larson that clearly discloses the claimed feature(s) as would be clearly recognized by one of ordinary skill in the art. As a note, appellant did not argue the other feature(s) in which the Examiner interprets that appellant must agree that the feature(s) are met by the applied reference. In particular, Larson discloses the claimed feature(s)

"disconnects the connection with the car mounted electronic device (160)" (see col. 3, lines 41-43; col. 7, lines 35-41 (5th full paragraph); col. 7, 9th full par.; col. 8, lines 9-11, 18-20), where the portable telephone (100 handset) is able to disconnect or determines the portable telephone (100) is out of communication range of the car kit which indicates a disconnection as evidenced by the fact that one of ordinary skill in the art would clearly recognize, and

"sets the communication mode in its own communication mode" (see col. 3, lines 41-43; col. 7, 5th full par.; col. 8, lines 9-11; Fig. 3 "ref. 340"), where the portable telephone

reverts (or returns) to normal mode (e.g., not in hands-free (HF) mode) as evidenced by the fact that one of ordinary skill in the art would clearly recognize,

“if no packet, which is periodically output from the car mounted electronic device (160) for acknowledgement of the connection, is received for a predetermined time period” (see col. 3, lines 41-43; col. 7, 5th full par.; col. 7, 9th full par.; col. 8, lines 9-11). Furthermore, the system of Larson is further enhanced to allow for either device such as the portable telephone (100) or car kit (160) to perform master-slave operation (see col. 5, lines 5-8; col. 7, 8th full par.), where the portable telephone (100) or car kit (160) can perform operations (e.g., initiating or disconnecting communication) to determine whether normal communication or hands-free (HF) communication is enabled or disabled.

B1. Argument of Claim 24 (see pg. 6, item VII, 3rd full paragraph (¶) of brief)

Appellant argues - ...does not disclose the disconnection procedure...does not have two communication modes corresponding to a hands-free and an own communication mode...does not switch over to any communication mode if the disconnection occurs during the communication...

B2. Response to argument of B1

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections

are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Furthermore, the Examiner respectfully disagrees with appellant's argument. Appellant has failed to interpret and appreciate the combined teachings of the prior art Chennakeshu, Raith, and Chen that clearly discloses the claimed feature(s) as would be clearly recognized by one of ordinary skill in the art. In particular, Chennakeshu discloses the claimed feature(s) "related to language two communication modes corresponding to a hands-free via interface module (32 Bluetooth) and an own communication mode via RF transceiver (24)" (see col. 6, 3rd full par. and 5th full par.; par. bridging col. 6-7; Figs. 1-2), where the hand-held radiotelephone (20) can operate in a conventional manner (reads on "own communication mode") or hands-free communication mode with the system remote unit (in vehicle system 60, 40) as evidenced by the fact that one of ordinary skill in the art would clearly recognize. As a note, Chennakeshu at the least further teaches of the feature(s) as related to the claimed disconnection procedure and switch over to any communication mode if the disconnection occurs during the communication (see col. 6, 5th full par.; col. 8, 4th par.), where different users have their on mobile telephone and are able to communicate with the hands-free unit. Additionally, in view of the above, a user when in the limited Bluetooth short-range can use their mobile telephone (20) to communicate with the hands-free unit and when out of range or disconnected from the hands-free unit the mobile telephone (20) can be used in a conventional manner as evidenced by the fact that one of ordinary skill in the art would clearly recognize. As further support in the same

field of endeavor, Raith discloses the claimed feature(s) “when a paging signal transmitted from the car mounted electronic device to determine presence of a mobile communication terminal within a radio area of the car mounted electronic device is detected” (see col. 7, lines 1-13), where the system exchanges an acknowledgement message between a transmitter and receiver to determine connection (or presence) or disconnection. As further support in the same field of endeavor, Chen discloses the claimed feature(s) “disconnects the connection with the car mounted electronic device and sets the communication mode in its own communication mode if no packet, which is periodically output from the car mounted electronic device for acknowledgement of the connection, is received for a predetermined time period” (see col. 9, line 51 - col. 10, line 25). Therefore, the combination(s) of the applied reference(s) Chennakeshu, Raith, and Chen as addressed above more than adequately meets the claim limitations.

C. Response to Argument(s) of Claims 24, 26-28, 63, and 65

As addressed in the rejection and arguments, the well known common knowledge of the Larson reference clearly discloses each and every claimed limitation or feature. Consequently, the Larson reference alone clearly anticipates each and every claimed limitation or feature relied upon by appellant.

Due to the common knowledge of the applied well known prior art, the examiner's conclusion of obviousness is **not** based upon improper hindsight reasoning. It must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only

knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Furthermore, the Examiner respectfully disagrees with appellant's argument(s). Appellant has failed to interpret and appreciate the combined teachings of the prior art (i.e., applied references) that clearly discloses the claimed feature(s) as would be clearly recognized by one of ordinary skill in the art. Consequently, all applied references were well known prior art prior to the filing of the instant application.

In the present application, the Appellant is reminded that the Examiner relies on the factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

First, the Examiner considered the Chennakeshu reference alone and when compared with the claims 24, 26-28, 63, and 65 at issue in the present application, the Examiner found a difference(s) in the wireless communications system of the Chennakeshu reference and the present application.

Second, the Examiner considered the similar teachings found in the other applied references Raith and Chen that accomplished the claimed features of claims 24, 26-28,

63, and 65 not taught by Chennakeshu. The applied references Raith and Chen teach of wireless communications systems which are in the same field of endeavor as the Chennakeshu reference. However, the Examiner also considered that for *a person with the common knowledge and ordinary skill in the art* of wireless communications systems would have obviously accomplished and developed the specific teachings and/or advantages of the apparatus and method claimed by the appellant by considering the systems accomplished by the teachings of the applied references Raith and Chen.

Finally, the Examiner, after considering *the common knowledge available to a person of ordinary skill in the art* of wireless communications systems, concluded that Chennakeshu's teachings when modified by the teachings of Raith and Chen would render the present application obvious by the combined teachings of the references, as set forth in the rejections.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

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(12) Conclusion

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


/WJD,JR/

Willie J. Daniel, Jr.
WJD,JR


14 January 2008

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